



ALAMEDA COUNTY  
CONGESTION MANAGEMENT AGENCY

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**Alameda County**

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**Executive Director**

Dennis R. Fay

March 21, 2003

**REQUEST FOR QUALIFICATIONS  
for  
On-Call Traffic Engineering Services  
for  
Projects on the State Highway System**

Dear Consultant:

The Alameda County Congestion Management Agency (CMA) plans to retain an on call traffic engineering firm to provide traffic forecasting and modeling services for projects on the state highway system. The contract duration is expected to be for two years.

The attached Request for Qualifications (RFQ) describes the general type of work that may be performed, describes the initial task, presents the requirements of the proposal, and outlines the criteria that will be used to evaluate the Statements of Qualification. A pre-submittal meeting will be held on Monday April 7, 2003 at 10:00 am in the CMA offices located at 1333 Broadway, Suite 220, Oakland, CA.

To be considered, ten (10) copies of the submittal must be received at the CMA offices no later than 12:00 NOON on Thursday April 17, 2003. Interviews, if necessary, are tentatively scheduled for Thursday, May 1, 2003.

We look forward to receiving a submittal from your firm. If you have any questions regarding this RFQ, please call our consultant Terry Bowen with Gray-Bowen and Company at (925) 947-1966 or me at (510) 836-2560.

Sincerely,

Frank R. Furger, P.E.  
Deputy Director

CC: Terry Bowen, Gray-Bowen and Company

**REQUEST FOR QUALIFICATIONS  
for  
On-Call Traffic Engineering Services  
for  
Projects on the State Highway System**

By the

Alameda County Congestion Management Agency (CMA)

**RESPONSES DUE:**

**12:00 NOON, Thursday, April 17, 2003**

Alameda County Congestion Management Agency (CMA)  
1333 Broadway, Suite 220,  
Oakland, CA 94612

**Request for Qualifications (RFQ 2003-03)  
for  
On-Call Traffic Engineering Services  
for  
Projects on the State Highway System**

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**Request for Qualifications (RFQ 2003-03)**  
**for**  
**On-Call Traffic Engineering Services**  
**for**  
**Projects on the State Highway System**

**SECTION 1      INTRODUCTION**

The Alameda County Congestion Management Agency (CMA) serves as the congestion management agency for Alameda County and is responsible for programming state and federal funding for transportation projects within the county. The CMA, working in partnership with Caltrans, has taken on additional responsibilities in the delivery of priority projects on the State Highway System.

**SECTION 2      SERVICES TO BE PROVIDED**

The CMA intends to retain a qualified and committed firm to be part of the CMA implementation team. The successful firm shall demonstrate the availability of qualified personnel to perform on-call traffic engineering services for projects on the state highway system.

The firm selected should be able to demonstrate the knowledge and experience necessary to provide the following services:

- Traffic Forecasting and Modeling services;
- Operational Analyses;
- Collect traffic data as necessary;
- Use various traffic engineering software tools;
- Communicate with staff of various participating agencies;
- Interact with other consultants and stakeholders;
- Presentations to technical advisory committees or policy committees;

**SECTION 3      TASK 1**

**Background**

Alameda County Congestion Management Agency (CMA), the City of Oakland, Port of Oakland and Caltrans have embarked on a joint effort to define a project on I-880 to consolidate the existing isolated southbound on/off-ramps at 10<sup>th</sup> and 16<sup>th</sup> Avenue. Caltrans has agreed to take

the lead in preparing a Project Study Report (PSR) that will define geometric alternatives and scope for a potential project. The ACCMA has agreed to provide Caltrans technical assistance and support for the development of the PSR.

### **TASK 1 Description**

A Traffic Operational Analysis for southbound I-880 between the southbound Oak Street on-ramp and southbound 23rd Avenue off-ramp is required. The purpose of the analysis is to evaluate future traffic (20-year horizon) conditions associated with the proposed relocation and consolidation of the existing isolated southbound on/off-ramps at 10th and 16th Streets respectively into a hook on/off ramp interchange in the vicinity of 10th Street. The analysis shall focus on the proposed interchange, the two adjacent interchanges at Oak Street and 23rd Avenue respectively and street intersections along the Embarcadero. The analysis shall include sufficient detail to demonstrate the proposed improvements will benefit overall freeway operations when compared to existing conditions. The traffic analysis will also be used to secure FHWA approval for changing freeway access and modifying ramp geometry.

### **Preliminary Project Schedule**

<b>Milestone</b>	<b>Completion Date</b>
Select Consultant	May 2003
Prepare Operational Analysis	May-August 2003
Support Preparation of PSR	May-October 2003

## **SECTION 4 RFQ SUBMITTAL REQUIREMENTS**

Please prepare your Statement of Qualifications in accordance with the following requirements.

1. *Statement of Qualifications:* The Statement of Qualifications (excluding resumes and the transmittal letter) shall not exceed a total of the equivalent of 25 single-sided, 8.5" x 11" pages. Resumes should be included in an appendix.
2. *Transmittal Letter:* The proposal shall be transmitted with a cover letter describing the firm's/team's interest and commitment to the proposed project. The letter shall state that the proposal shall be valid for a 90-day period and should include the name, title, address and

telephone number of the individual to whom correspondence and other contacts should be directed during the consultant selection process. The person authorized by the firm/team to negotiate a contract with CMA shall sign the cover letter.

Address the cover letter as follows:

Frank R. Furger, P.E.  
Deputy Director  
Alameda County Congestion Management Agency  
1333 Broadway, Suite 220  
Oakland, California 94612

3. *Project Understanding:* This section should clearly convey the consultant's understanding of the nature of the work, including coordination with and approvals from CMA.
4. *Approach and Management Plan:* This section should provide the firm's/team's proposed approach and management plan for providing the services.
5. *Qualifications and Experience:* The proposal should provide the qualifications and experience of the consultant team that will be available for providing the requested services. Please emphasize the specific qualifications and experience from projects similar to this project for the key team members. Replacement of key team members will not be permitted without prior consultation with and approval of the CMA.
6. *Staffing Plan:* The proposal should provide a staffing plan and hourly estimates (detailed by position) required for the completion of Task 1.
7. *Additional Relevant Information:* Provide additional relevant information that may be helpful in the selection process (not to exceed the equivalent of 2 single-sided pages).
8. *References:* For each key team member, provide at least three references (names and current phone numbers) from recent work (previous three years) similar this project. Include a brief description of each project associated with the reference, and the role of the respective team member.
9. *Cost Proposal:* A cost proposal for Task 1 should be submitted in a **separate sealed envelope titled "On-Call Traffic Engineering Services."** The cost submittal should indicate the number of anticipated hours by the project manager and key team members. The estimated level of hours for other staff can be summarized in general categories. Include information regarding your Federal Acquisition Regulations (FAR) multiplier and the FAR of any subconsultants. The CMA will pay costs based on the FAR plus a negotiated fee, however the overall multiplier will not exceed 3.0.

10. *Submittal of Proposals*: Ten (10) copies of your proposal are due at the CMA offices no later than the time and date specified in Section 6, below. Envelopes or packages containing the proposals should be clearly marked, **“Statement of Qualifications Enclosed.”**

## **SECTION 5      SELECTION OF CONSULTANT**

The proposals will be evaluated and scored on a 100 point total basis using the following criteria:

1. Qualifications and specific experience of key team members.
2. Project understanding and approach.
3. Experience with similar types of projects.
4. Satisfaction of previous clients.
5. Schedule and capacity to provide qualified personnel.

Two or more of the firms/teams may be invited to an interview on May 1, 2003. The project manager and key team members should attend the interview. The evaluation / interview panel may include representatives from CMA, Caltrans and other agencies, but the specific composition of the panel will not be revealed prior to the interviews. Costs for travel expenses and proposal preparation shall be borne by the consultants.

Once the top firm/team has been determined, CMA staff will start contract negotiations with firm/team. If contract negotiations are not successful, the second ranked firm/team may be asked to negotiate a contract with CMA, etc. Provided the negotiations are proceeding well, the CMA may elect to initiate a portion of the work scope with a Notice to Proceed (NTP), prior to execution of the contract.

## **SECTION 6      SELECTION PROCESS DATES**

- April 7, 2003:**                      A **pre-submittal meeting** will be held at 10:00 a.m., Monday, April 7, 2003.
- April 17, 2003:**                      **Submittals are due no later than 12:00 NOON on April 17, 2003** at the offices of the Alameda County Congestion Management Agency, 1333 Broadway, Suite 220, Oakland, CA 94612. ***Late submittals will not be accepted.***
- May 1, 2003:**                      Interviews for consultant selection are tentatively scheduled for May 1, 2003. (If necessary)

If you have any questions regarding this RFQ, please contact:

Terry Bowen  
Gray-Bowen and Company  
Phone (925) 937-0980  
[terry@gray-bowen.com](mailto:terry@gray-bowen.com)

or

Frank R. Furger, P.E.  
Deputy Director  
CMA  
Phone (510) 836-2560  
Fax (510) 836-2185  
[ffurger@accma.ca.gov](mailto:ffurger@accma.ca.gov)

## **SECTION 7      GENERAL CONDITIONS**

### **A. Limitations**

This RFP does not commit the Alameda County CMA to award a contract or to pay any costs incurred in the preparation of a proposal in response to this RFP.

### **B. Rejection of Submittals**

The Alameda County CMA reserves the right to reject any or all proposals.

### **D. Workscope Modifications**

The Alameda County CMA reserves the right to request changes to the staffing and/or scope of services contained in any of the proposals and to enter negotiations with any of the firms/teams regarding their submittal.

### **E. Contract**

A sample contract is shown in Attachment 2. It is expected that the terms of the contract will be acceptable to the consultant.

### **F. Non - Discrimination**

Contractors shall not discriminate on the basis of race, color, national origin, sex, or physical disability in the performance of CMA contracts

### **G. Levine Act**

Selected consultants will be required to disclose on the record any contribution of more than \$250.00 which they have made to a CMA Board member within the twelve-month period preceding the submittal deadline of this RFQ. This applies to your company, any member of your team, any agents for you or other team members and to the major shareholders of any



closed corporation that is part of your team. If you have made a contribution which needs to be disclosed you must provide written notice of the date, amount and receipt of the contribution(s) to the CMA Executive Director, Dennis Fay. This information will need to be provided before the CMA can approve any contract.

## **SECTION 8      APPENDICES**

1. Sample contract
2. List of firms that received notification of this RFQ

## **APPENDIX 1**

### **Sample contract**

**AGREEMENT**  
**between the**  
**ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY**  
**and**

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This AGREEMENT is made and entered into as of the latest date appearing on the signature page below, by and between the ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY, a joint powers agency ("CMA") and \_\_\_\_\_ [a \_\_\_\_\_ (state) \_\_\_\_\_ corporation] [a \_\_\_\_\_ (state) \_\_\_\_\_ partnership] [a \_\_\_\_\_ (state) \_\_\_\_\_ limited liability company] [a sole proprietorship], with a place of business at \_\_\_\_\_, \_\_\_\_\_ (City) \_\_\_\_\_, CA, ("CONSULTANT").

**RECITALS**

WHEREAS, CMA has defined and developed the \_\_\_\_\_  
\_\_\_\_\_ [describe  
project] ("PROJECT");

WHEREAS, CMA desires to secure [professional services / describe] necessary for said PROJECT; and

WHEREAS, CONSULTANT represents that it possesses the professional qualifications and expertise to provide such services;

NOW, THEREFORE, it is mutually agreed by and between the parties as follows:

CMA hereby contracts with CONSULTANT and CONSULTANT hereby accepts such contract to perform the services upon the terms and subject to the conditions and in consideration of the payments set forth in this AGREEMENT. CONSULTANT promises, covenants and agrees to diligently pursue the work to completion in accordance with the schedule and under the terms and conditions set forth herein.

## ARTICLE I

### A. GENERAL.

1. **The “PROJECT,”** which is the subject of this AGREEMENT is more particularly described in Appendix A, “Detailed Scope of Work,” attached hereto.

2. **Scope of Services.** Except as may be specified elsewhere in the AGREEMENT, CONSULTANT shall furnish all technical and professional services including labor, material, equipment, transportation, supervision and expertise to perform all operations necessary and required to satisfactorily complete the work in Appendix A, which is attached hereto and incorporated herein by reference and as further defined in Appendix D, “Project Cost Proposal” which is attached hereto and incorporated herein by reference.

3. **CMA’s Representative.** CMA hereby designates its Executive Director to be its representative in administering all matters relative to the AGREEMENT. CMA’s Representative may delegate authority for specific matters to other staff members or other consultants.

4. **CONSULTANT’s Representative.** CONSULTANT hereby designates \_\_\_\_\_ to represent CONSULTANT with full authority under the AGREEMENT.

5. **CONSULTANT’s Identity and Personnel.** \_\_\_\_\_ will be the key person for the performance of services under this AGREEMENT.

CONSULTANT is the prime consultant heading a team that includes multiple subconsultant firms. The identity of the firms, their respective areas of responsibility and the key personnel who will work on the PROJECT are identified on Appendix B, “Key Project Personnel,” attached hereto. Any significant change in responsibilities among such firms, any addition or deletion of a firm (whether working as a joint venture partner or subconsultant), and any change in key personnel may be made only upon prior written approval by CMA.

CONSULTANT and its subconsultants shall notify CMA of any proposed change of ownership or fundamental structure, respectively, in CONSULTANT’s firm or any subconsultants’ firm. Within 30 days of such notice, CMA shall notify CONSULTANT whether CMA will approve such changed firm to continue providing services under this AGREEMENT or whether CMA will terminate this AGREEMENT or require a substitution of a subconsultant firm. Nothing in this

provision shall be construed to limit CMA's right to terminate this AGREEMENT for cause or without cause as set forth in **Article I, Section B** of this AGREEMENT.

Subcontracts between CONSULTANT and other team member firms and between team member firms and other lower tier subconsultants will be subject to review and approval of CMA's representative.

**6. Preliminary Review of Work.** Where CONSULTANT is required to prepare and submit reports, working papers, etc. to CMA as products of the work described in the Scope of Work, these shall be submitted in draft form, and CMA shall have the opportunity to direct revisions prior to formal submission by CONSULTANT.

**7. Appearance at Hearings.** If and when required by CMA, CONSULTANT shall render assistance at public meetings and hearings to perform its services under the AGREEMENT as may be deemed necessary by CMA.

**8. Responsibility of CONSULTANT.** CONSULTANT shall be responsible for the professional quality, technical accuracy and the coordination of the services furnished by it under the AGREEMENT. Neither CMA's review, acceptance, nor payment for any of the services required under the AGREEMENT shall be construed to operate as a waiver of any rights under the AGREEMENT or of any cause of action arising out of the performance of the AGREEMENT, and CONSULTANT shall be and remain liable to CMA in accordance with applicable law for all damages to CMA caused by CONSULTANT's negligent performance of any of the services furnished under the AGREEMENT.

**9. Inspection of Work.** It is understood that authorized representatives of CMA may inspect or review CONSULTANT's work in progress at any reasonable time.

**10. Suspension, Delay or Interruption of Work.** CMA may suspend, delay, or interrupt the services of CONSULTANT for the convenience of CMA. In the event of such suspension, delay, or interruption by CMA or of Excusable Delays as defined in **Article II, Section C**, equitable adjustment will be made in the PROJECT schedule, commitment and cost of CONSULTANT's personnel and subconsultants, and CONSULTANT's compensation.

**11. No Third Party Beneficiaries.** This AGREEMENT gives no rights or benefits to anyone other than CMA and CONSULTANT and has no third-party beneficiaries.

**12. Legal Action.** All legal actions by either party against the other arising from this AGREEMENT, or for the failure to perform in accordance with the applicable standard of care, or any other cause of action, will be subject to the statutes of limitation of the State of California.

**13. Survival of Indemnities.** Notwithstanding the termination of this AGREEMENT and/or the breach of contract or warranty, fault, tort (including but not limited to torts based on negligence, statute or strict liability), CONSULTANT's obligations of indemnity set forth in **Article I, Section F** and any releases, limitations on indemnity, and any and all limitations on any remedies herein shall survive termination of this AGREEMENT for any cause, and **Article I, Section A, paragraph 8** and **Article I, Section F** of this AGREEMENT shall take precedence over any conflicting provision of this AGREEMENT or any document incorporated into it or referenced by it.

**14. Jurisdiction.** The laws of the State of California will govern the validity of this AGREEMENT, its interpretation and performance, and any other claims related to it.

**15. Severability and Survival.** If any of the provisions contained in this AGREEMENT are held for any reason to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision, and this AGREEMENT will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

**16. Arbitration.** All claims, counterclaims, disputes, and other matters in question arising out of, or relating to, this AGREEMENT or the breach thereof shall be resolved by final, binding arbitration, conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association in effect at the date of execution of this AGREEMENT, except that the parties may mutually agree to a different alternative dispute resolution mechanism by jointly executing an agreement in writing describing such alternative mechanism. Demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. A demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. If either party refuses or fails to participate in naming an arbitrator or in the arbitration itself, the arbitrator named by the American Arbitration Association or the other party is hereby authorized to decide the dispute based upon the information presented to him/her. All statutes of limitation that would otherwise

be applicable shall apply to any arbitration proceeding hereunder. In any arbitration proceeding hereunder, any arbitrator shall have substantial training and professional experience in the subject matter of the arbitration, but shall not have been employed by a party for at least five (5) years prior to the arbitration proceeding. No person shall be chosen as an arbitrator who has at any time been an employee or consultant of either party. All arbitration hearings shall be held at a mutually agreeable time and location within the City of Oakland, California, unless otherwise agreed by the parties. The decision of the arbitrator shall be final, conclusive and binding on the parties, absent fraud or gross error. The decision of the arbitrator may be entered as a judgment in a court of competent jurisdiction. The parties shall each be responsible for one-half of the arbitrator's fees and expenses. Any attorney-client privilege and other protections against disclosure of confidential information, including any protection afforded by the work product privilege for attorneys that could otherwise be claimed by a party shall be available to and may be claimed by such party in any arbitration proceeding hereunder. Neither party waives any attorney-client privilege or any other privilege against disclosure of confidential information by reason of anything contained in or done pursuant to or in connection with this **paragraph 16**. All arbitration proceedings hereunder may be reported by a certified shorthand court reporter.

**17. Attorneys' Fees.** Should it become necessary to enforce the terms of this AGREEMENT, the prevailing party as determined by a court or an arbitrator shall be entitled to recover reasonable expenses and attorneys' fees from the other party.

**18. Final Acceptance.** When CMA determines in its reasonable discretion that CONSULTANT has satisfactorily completed the Scope of Services, CMA shall give CONSULTANT written Notice of Final Acceptance, and CONSULTANT shall not incur any further costs hereunder. CONSULTANT may request this determination when, in its opinion, it has satisfactorily completed the Scope of Services, and if so requested, CMA shall make this determination within three weeks of such request.

**19. Term.** The term of the AGREEMENT shall be from the date of Notice to Proceed with the services until the completion of the PROJECT pursuant to the Schedule of Work, to the satisfaction of CMA as evidenced by the Notice of Final Acceptance unless terminated earlier pursuant to **Article I, Section B**, below.

**20. Subcontracts.** Subcontracts between CONSULTANT and other team firms and between team members firm and other lower tier subconsultants will be subject to review and approval of CMA's representative. Any such subcontracts in excess of \$25,000.00 shall contain all provisions stipulated in this AGREEMENT as applicable to subconsultants.

**21.** The services described in the Schedule of Work shall be completed on or before \_\_\_\_\_, unless such date is extended by mutual agreement of the parties.

**B. TERMINATION/CANCELLATION.**

**1. For Convenience.** CMA may terminate this AGREEMENT. If CMA terminates the AGREEMENT for the convenience of CMA, CMA shall give CONSULTANT seven (7) days prior written notice. CONSULTANT shall be paid for services performed to the date of termination, to include a pro-rated amount of profits, if applicable, but no amount shall be allowed for anticipated profit on unperformed services. In addition to payment for services performed, CMA shall pay CONSULTANT the allowable costs incurred prior to termination, and other costs reasonably incurred by CONSULTANT to implement the termination, such as, but not limited to, subcontract termination costs and related closeout costs, if any.

**2. For Cause.** If CONSULTANT fails to fulfill its obligations under this AGREEMENT and CMA decides to terminate this AGREEMENT accordingly, CMA shall give CONSULTANT seven (7) days prior written notice of its intent to terminate the AGREEMENT for cause. If, at the end of the seven (7) day notice, CONSULTANT has not commenced correction of its performance, CMA may immediately thereafter exercise its right of termination.

**3. Damages/Compensation.** If the termination is due to the failure of CONSULTANT to fulfill its obligations under the AGREEMENT, CONSULTANT will be compensated for that portion of the work which has been completed and accepted by CMA, and for services performed to the date of termination, including a prorated amount of profit, if applicable, but no allowance for anticipated profit on unperformed services. In such case, CMA may take over the work and prosecute the same to completion by contract or otherwise, and CONSULTANT shall be liable to CMA for reasonable costs incurred by CMA in making necessary arrangements for completion of the work by others.

**4. Adjustments.** If, after notice of termination for failure to perform, it is determined by CMA that CONSULTANT had not so failed and CMA nonetheless desires to



terminate the AGREEMENT, the termination shall be deemed to have been effected for the convenience of CMA. In such event, adjustment shall be made as provided in **Article I, Section B, paragraph 1**.

**5. Rights and Remedies.** The rights and remedies of the parties provided in this Section are cumulative and not exclusive, and are in addition to any and all other rights and remedies provided by law or other sections of this AGREEMENT.

**6. Waivers.** CONSULTANT, by executing the AGREEMENT, shall be deemed to have waived any and all claims for damages in the event of CMA's termination for convenience as provided in **Article I, Section B, paragraph 1**, except for justifiable costs of termination, including, but not limited to, subcontract termination costs as mutually agreed by CMA and CONSULTANT.

## **C. REVISIONS IN SCOPE OF SERVICES.**

**1. Change Order.** CMA's representative may make changes in or additions to the Scope of Services under the AGREEMENT if such changes are agreed to by CONSULTANT, which agreement shall not be unreasonably withheld, through a written Change Order which does not modify the overall purpose, term or compensation provisions of the AGREEMENT. No changes in the Scope of Work shall cause an increase in cost to CMA unless the change is approved in advance by a written Change Order.

**2. Extra Work.** At any time during the term of the AGREEMENT, CMA may order extra work to be performed by CONSULTANT. Extra work is defined as work which was not anticipated and/or contained in the AGREEMENT and which is determined by CMA to be necessary for the PROJECT. Necessary changes in the description of the Scope of Services, equitable adjustments in allowable costs, fixed fee, maximum price, term and schedule required by the Extra Work Order shall be agreed upon by the parties and incorporated herein through the execution of a written amendment to this AGREEMENT. CONSULTANT shall not perform any work or incur any costs pursuant to any Extra Work Order without prior approval by CMA. CONSULTANT's compensation shall be adjusted due to an Extra Work Order only if it has an impact on costs or terms of the AGREEMENT.

**D. OWNERSHIP OF MATERIALS/CONFIDENTIALITY.**

**1. Documents.** Except as noted below, deliverables prepared by CONSULTANT under the AGREEMENT, such as plans, drawings, tracings, quantities, specifications, proposals, sketches, diagrams and calculations, relative to the AGREEMENT shall become the property of CMA upon completion of the term of this AGREEMENT whether or not the PROJECT is completed. CMA shall not be limited in any way in its use thereof at any time during or after the term of this AGREEMENT, provided that any such use not within the purposes of the AGREEMENT shall be at the sole risk of CMA, and provided that CMA shall indemnify CONSULTANT against any damages resulting from such use, including the release of this material to third parties for use not intended in the AGREEMENT, and for deliverables that have been changed without CONSULTANT's written approval. All documents shall be provided in both written and electronic format.

**2. Confidentiality.** All ideas, memoranda, specifications, plans, manufacturing procedures, drawings, descriptions, and all other written information submitted to CONSULTANT by or on behalf of CMA in connection with the performance of the AGREEMENT shall be held confidential by CONSULTANT and shall not, without the prior written consent of CMA, be used for any purposes other than the performance of the services under this AGREEMENT. Nothing furnished to CONSULTANT which is otherwise known to CONSULTANT or becomes generally known to the related industry, shall be deemed confidential. CONSULTANT shall not use CMA's name or insignia, photographs of the work, or any other publicity pertaining to the work in any magazine, trade paper, newspaper, or other news medium without the express written consent of CMA. CONSULTANT may use project technical information at will in the demonstration of expertise for purposes of describing project experience to others in the routine conduct of CONSULTANT's business with CMA's prior written consent.

**E. CONSULTANT STATUS/SUBCONSULTANTS.**

**1. Consultant.** In the performance of the services to be provided hereunder, CONSULTANT is an independent consultant and is not an employee, agent or other representative of CMA.

**2. Assignment or Transfer.** Services to be furnished hereunder shall be deemed to be professional services and, except as herein provided, CONSULTANT has neither the right nor

the power to assign, sublet, transfer or otherwise substitute its interest in the AGREEMENT or its obligations hereunder without the prior written consent of CMA.

## **F. INDEMNIFICATION.**

**1. Duties.** CONSULTANT represents and maintains that it is skilled in the technical practices necessary to perform the services, its duties and obligations, expressed and implied, contained herein, and CMA expressly relies upon CONSULTANT's representations regarding its skills and knowledge. CONSULTANT shall perform all services and duties in conformance to and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California.

**2. Responsibilities.** CONSULTANT agrees to defend, protect, indemnify and hold harmless CMA, its officers and employees, from and against any and all liability, claims, suits, loss, damages, costs and expenses (collectively "Claims") to the extent arising out of or resulting from any negligent acts, errors or omissions of CONSULTANT, and its officers, employees, agents or subconsultants in the performance of their services under the AGREEMENT. In the event CMA is found by a court or arbitrator to be partially liable for a Claim, CMA shall reimburse CONSULTANT for its proportionate share of the reasonable costs of defense actually expended, based on its share liability.

CMA shall provide CONSULTANT an opportunity to cure, at CONSULTANT's expense, all errors and omissions, which may be disclosed during the review of the services performed by CONSULTANT. Should CONSULTANT fail to make such corrections in a timely manner, such corrections shall be made by CMA and CONSULTANT shall pay all costs thereof.

It shall be the responsibility of CONSULTANT to provide the basic insurance requirements indicated in **Section G**, below.

## **G. INSURANCE.**

**1. Comprehensive Liability.** CONSULTANT shall carry Commercial or Comprehensive General Liability Insurance and maintain aggregate limits of liability sufficient cover not less than \$1,000,000.00 per occurrence for bodily injury and \$500,000.00 per occurrence for Property Damage and Automobile Liability Insurance with limits not less than \$250,000.00 per person and \$500,000.00 per occurrence for property damage. Maintenance of

said insurance shall extend throughout the entire term of this AGREEMENT. Such insurance shall add CMA, its officers, employees, agents, and, if applicable other permitting agencies as identified by CMA, while acting within the scope of this AGREEMENT, as additional insureds. Such insurance shall include the following:

- a. All operations including use of all vehicles.
- b. Blanket contractual liability on all written contracts, including this AGREEMENT.
- c. Personal injury (in lieu of, or in addition to, bodily injury).
- d. Use of watercraft, where applicable.

Subconsultants of CONSULTANT shall provide evidence of their own Commercial or Comprehensive General Liability Insurance which meets the above specifications to CMA, or be added to CONSULTANT's policy as additional insured if said policy of CONSULTANT allows such addition.

Notwithstanding the above, in the event a subconsultant, after using its best efforts, is unable to meet the insurance specifications provided in this **Section G, paragraph 1**, CMA, after examining the subconsultant's circumstances, may decide, in its sole discretion, to waive or modify any of the insurance specification requirements for such subconsultant.

**2. Errors and Omissions.** In addition to the requirements of **Article I, Section G, paragraph 1** above, CONSULTANT shall carry professional liability insurance for errors and omissions in an amount not less than \$1,000,000. Such insurance shall include the following:

- a. A deductible or self-insured retention is permissible on this policy, providing that such deductible or self-insured retention shall not exceed \$50,000 per occurrence.
- b. Said policy shall include a contractual liability endorsement on all written contracts, including this AGREEMENT.
- c. Subconsultants of CONSULTANT providing services of a professional nature, shall provide evidence of their own professional liability insurance which meets the above specifications to CMA, or be added to CONSULTANT's policy as additional insured if said policy of CONSULTANT allows such addition.

Notwithstanding the above, in the event a subconsultant, after using its best efforts is unable to meet the professional liability insurance requirements provided in this **Section G, paragraph 2**, CMA, after examining the subconsultant's circumstances, may decide, in its sole discretion, to modify the professional liability requirements for such subconsultant.

**3. Worker's Compensation.** CONSULTANT shall carry Worker's Compensation Insurance as required by California Law, covering all work performed by CONSULTANT under the AGREEMENT, and all of CONSULTANT's personnel performing services under the AGREEMENT.

**4. Certificates.** Insurance certificates evidencing the policies described in this **Article I, Section G** are to be furnished to CMA and provide for not less than sixty (60) days prior written notice to CMA of any cancellation.

## **H. PROHIBITED INTEREST.**

**1. Solicitation.** CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure the AGREEMENT and that it has not paid or agreed to pay any company or person, other than a bonafide employee working solely for CONSULTANT, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from the award or making the AGREEMENT. For breach of violation of this warranty, CMA shall have the right to rescind the AGREEMENT without liability.

**2. Conflict of Interest.** CONSULTANT agrees that, for the term of this AGREEMENT, no member, officer or employee of CMA, during his/her tenure or for one (1) year thereafter, or member or delegate to the Congress of the United States, shall have any direct interest in the AGREEMENT or any direct or material benefit arising therefrom.

**3. Conflict of Employment.** Employment by CONSULTANT of any current officer, executive director or other employee of CMA shall not be permitted even though such employment may be outside of the employee's regular working hours or on weekends, holidays or vacation time. Further, for a period of one year after leaving office or employment, no officer, executive director or other employee of CMA shall, for compensation, act as agent or attorney or otherwise represent CONSULTANT by making any formal or informal appearance by making any oral or written communication before CMA, if the appearance or communication is made for the

purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance, amendment, awarding or revocation of a permit, license, grant, entitlement or contract, or the sale or purchase of goods, services or property.

**I. AFFIRMATIVE ACTION AND DISADVANTAGED BUSINESS ENTERPRISE PROGRAM.**

1. In connection with the execution of the AGREEMENT, CONSULTANT shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40) or sex. CONSULTANT shall take affirmative action to insure that applicants are employed and that employees are treated during their employment without regard to their race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40) or sex. Such actions shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination.

2. To the extent applicable, CONSULTANT will comply with CMA's Disadvantaged Business Enterprise (DBE) Program.

**J. NOTIFICATION.**

All notices hereunder and communications regarding interpretation of the terms of the AGREEMENT or changes thereto shall be effected by the mailing thereof by registered or certified mail, postage prepaid and addressed as follows:

CONSULTANT:

\_\_\_\_\_

ATTN: (name)  
(address)  
(city), CA (zip)

CMA:

ALAMEDA COUNTY CONGESTION  
MANAGEMENT AGENCY

ATTN: Dennis Fay  
Executive Director  
1333 Broadway, Suite 220  
Oakland, CA 94612-1918

**K. AUDIT OF BOOKS AND RECORDS.**

CONSULTANT shall make available to CMA, its authorized agents (including but not limited to representatives of the state and federal governments), officers and employees, for examination, any and all ledgers and books of account, invoices, vouchers, canceled checks, and

other records or documents evidencing or related to the expenditures and disbursements charged to CMA, and shall furnish to CMA, its agents, and employees, such other evidence or information as CMA may require with respect to any such expense or disbursement charged by CONSULTANT.

The records described in this Section shall be retained by CONSULTANT and made available for inspection by CMA for a period of three (3) years after this AGREEMENT is terminated. The audit to determine final compensation will be accomplished by CMA within one year after completion of the PROJECT.

**L. ENTIRE AGREEMENT.**

This AGREEMENT constitutes the entire agreement between the parties hereto relating to the PROJECT and supersedes any previous agreement or understanding.

**ARTICLE II - SCHEDULE**

**A. SCHEDULE OF WORK.**

CONSULTANT shall conform with the schedule set forth in Appendix C, "Milestone Schedule", which is attached hereto and incorporated herein by reference except as otherwise modified by the AGREEMENT. In the event it becomes necessary to Modify the Schedule of Work, CONSULTANT will prepare a revised schedule for review and approval by CMA. When a revised schedule has been submitted to and approved by CMA, it will be substituted for Appendix C and will become a part of this AGREEMENT. CONSULTANT is responsible for reporting in a prompt and timely manner whenever it appears the established work schedule will not be met, whether or not the reasons for anticipated delay are within CONSULTANT's control.

**B. REPORTING.**

Monthly progress reports in a form acceptable to CMA, which describe work accomplished, shall be submitted with CONSULTANT's monthly billings. CMA agrees to respond to CONSULTANT's draft report submissions in accordance with the Schedule of Work.

**C. DELAY.**

Neither party hereto shall be considered in the default in the performance of its duties and obligations under this AGREEMENT with respect to the "Milestone Schedule", to the extent that the performance of any obligation is prevented or delayed by an Excusable Delay as defined

herein. Should CONSULTANT's services be delayed by any mutually agreed upon excusable cause, CONSULTANT's schedule for completion of tasks affected by such delay shall be extended as agreed to by CMA. CONSULTANT shall take all reasonable actions to minimize any schedule extensions or additional costs to CMA resulting from such delay. Excusable Delays may include, but are not limited to, acts of God or of the public enemy, acts or failures to act of other agencies or CMA (in either their sovereign or contractual capacity), embargoes, and unusually severe weather. In every case, the failure to perform must be reasonably beyond the control and without the fault or negligence of CONSULTANT.

**D. NOTICE OF POTENTIAL DELAY.**

As a condition precedent to the approval of an extension of time to complete the established work schedule, CONSULTANT shall give written notice to CMA within seven (7) working days after CONSULTANT knows or should know of any cause or condition which might, under reasonably foreseeable circumstances, result in delay for which CONSULTANT may claim an extension of time.

**ARTICLE III – COMPENSATION/PAYMENT**

**A. COMPENSATION.**

Compensation by CMA to CONSULTANT will be on the cost basis set forth in Appendix D, "Project Cost Proposal."

**B. AGGREGATE AMOUNT.**

1. Total compensation for services to be performed under this AGREEMENT will not exceed \$ \_\_\_\_\_, including Direct Expenses but excluding taxes, and CONSULTANT shall not be obligated to perform additional services beyond the scope of this AGREEMENT or incur costs which would cause this amount to be exceeded, unless and until the AGREEMENT has been formally amended in writing.

2. The aggregate amount was computed based on Appendix A, "Detailed Scope of Work" and Appendix D, "Project Cost Proposal", of this AGREEMENT.

**C. INVOICES AND TIME OF PAYMENT.**

1. For all services described in **Article I** and **Appendix A**, payment is due within thirty (30) days after receipt of billing of the amount due, as prescribed in this **Article III**, for all



services rendered during the month, except as otherwise provided in this **Section C**. Payment for service will represent the value of the completed scope of work as measured by expended costs to date.

**2.** CMA shall withhold ten percent (10%) of each progress payment referred to in **paragraph 1** above.

**3.** If CMA disputes any portion of the amount due to CONSULTANT, it may, at its sole discretion, withhold payment up to 150% of the disputed amount pending resolution of the dispute. If any amount is wrongfully withheld or not paid to CONSULTANT on a timely basis, CMA shall pay to CONSULTANT 1.5% per month for the improperly withheld amount for each month which payment is wrongfully withheld or not paid. In any action for the collection of amount withheld in violation of this provision, the prevailing party shall be entitled to reasonable attorney's fees and costs.

**4.** CONSULTANT agrees that within twenty (20) days of receipt of payment from CMA, CONSULTANT shall pay to its subconsultants all amounts due from such payment, subject to such legal requirements under federal or state law regarding withholding of disputed payments and applicable penalties.

**5.** The format of payment invoices shall be as mutually agreed upon by CONSULTANT and CMA.

**6.** CMA may, on occasion, request reasonable documentation for certain expense items. In such instances, payment for all other amounts in the invoice for which additional documentation is not required will be made.

**7.** Upon CMA's Final Acceptance pursuant to **Article I, Section A, paragraph 18**, CONSULTANT shall submit a final invoice to CMA and request final retention payment. CMA shall make final retention payment to CONSULTANT within 45 days of receipt of billing of the amount due. Final Payment shall be subject to the provisions of **paragraphs 1** and **3** above with regard to CMA's right to withhold disputed payments, CONSULTANT's rights to 1.5% payment on wrongfully withheld or untimely payment, any prevailing party's reasonable legal fees and costs and payments to subconsultants.

**8.** CONSULTANT agrees that the cost principles set forth in Title 48 CFR, Chapter 1, Part 31 (Cost Principles and Procedures) shall be used to determine the allowability of individual cost items. Any costs for which payments have been made to CONSULTANT which are determined by subsequent audit to be unallowable under these cost principles are subject to repayment by CONSULTANT to CMA.

**9.** CONSULTANT agrees to comply with federal procedures in accordance with Title 49 CFR, Part 18 (Uniform Administrative Requirements for Grants and Agreements with States and Local Governments).

**10.** If any subconsultant provides services pursuant to this AGREEMENT, the agreement with said subconsultant shall contain a clause to the effect that the provisions of **paragraphs 8 and 9** above shall apply to said subconsultant.

**D. SUSPENSION OF WORK.**

In the event payment for services rendered has not been made within forty-five (45) days from the receipt of the invoice for any uncontested billing, CONSULTANT may, after giving fifteen (15) days written notice and without penalty or liability of any nature, suspend all work on all authorized services specified herein. Upon receipt of payment in full for services rendered, CONSULTANT will continue with all authorized services. Payment of all compensation due CONSULTANT pursuant to this AGREEMENT shall be a condition precedent to CMA's use of any of CONSULTANT's professional service work products furnished under this AGREEMENT.

**ARTICLE IV - OBLIGATIONS OF CONSULTANT**

**A. AUTHORIZATION TO PROCEED.**

CONSULTANT will not begin work on any of the services described in **Article I** until CMA directs it in writing to proceed.

**ARTICLE V – OBLIGATIONS OF CMA**

**A. CMA-FURNISHED DATA.**

CMA will provide to CONSULTANT all relevant technical data in CMA's possession, including, but not limited to, previous reports, [maps, surveys, borings,] and all other information relating to CONSULTANT's services on the PROJECT. CONSULTANT will reasonably rely upon the accuracy, timeliness, and completeness of the information provided by CMA.

**B. ACCESS TO FACILITIES.**

CMA will make its facilities reasonably accessible to CONSULTANT as required for CONSULTANT's performance of its service.

**C. TIMELY REVIEW.**

CMA will examine the studies, reports, sketches, drawings, specifications, proposals, and other documents; obtain advice of an attorney, insurance counselor, accountant, auditor, and other consultants as CMA deems appropriate; and render, in writing, decisions required of CMA in a timely manner.

**D. PROMPT NOTICE.**

CMA will give prompt written notice to CONSULTANT whenever CMA observes or becomes aware of any development that affects the scope or timing of CONSULTANT's services, or any defect in the work of CONSULTANT or its subconsultants.

**ARTICLE VI - APPENDICES, SCHEDULES AND SIGNATURES**

This AGREEMENT, including its Appendices, constitutes the entire agreement, supersedes all prior written or oral understandings, and may only be changed by a written amendment executed by both parties.

The following Appendices are hereby made a part of this AGREEMENT:

**Appendix A:** DETAILED SCOPE OF WORK

**Appendix B:** CONSULTANT AND SUBCONSULTANT FIRMS KEY PROJECT  
PERSONNEL

**Appendix C:** MILESTONE SCHEDULE

**Appendix D:** PROJECT COST PROPOSAL

IN WITNESS WHEREOF, CMA has by order caused the AGREEMENT to be subscribed by the binding authority of CMA and CONSULTANT has caused the AGREEMENT to be subscribed on its behalf by duly authorized signees.

**CONSULTANT:**

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Date: \_\_\_\_\_

**CMA:**

ALAMEDA COUNTY CONGESTION  
MANAGEMENT AGENCY

By: \_\_\_\_\_  
Dennis Fay, Executive Director

Date: \_\_\_\_\_

Recommended For Approval

By: \_\_\_\_\_  
Name / Title

Approved as to form and legality:

\_\_\_\_\_  
Wendel, Rosen, Black & Dean, LLP  
Legal Counsel to CMA

**APPENDIX A**  
**to the**  
**AGREEMENT**  
**between the**  
**ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY**  
**and**

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**DETAILED SCOPE OF WORK**

**APPENDIX B**  
**to the**  
**AGREEMENT**  
**between the**  
**ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY**  
**and**

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**CONSULTANT AND SUBCONSULTANT**  
**FIRMS KEY PROJECT PERSONNEL**

**APPENDIX C**  
**to the**  
**AGREEMENT**  
**between the**  
**ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY**  
**and**

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**MILESTONE SCHEDULE**

**APPENDIX D**  
**to the**  
**AGREEMENT**  
**between the**  
**ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY**  
**and**

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**PROJECT COST PROPOSAL**



## **APPENDIX 2**

### **List of firms that received this RFQ**

# List of Firms That Received Notification of This RFP

Company	Address	City	State	ZIP
Abrams Associates	2815 Mitchell Drive, Suite 100	Walnut Creek	CA	94598
AMC Consulting Engineers	360 22nd Street, Suite 688	Oakland	CA	94612
Azari Engineering, Inc.	5356 Clayton Rd. #201	Concord	CA	94521
Berryman & Henigar	6150 Stoneridge Mall Road, Suite 370	Pleasanton	CA	94588
Cambridge Systematics, Inc.	1300 Clay Street, Suite 1010	Oakland	CA	94612
CCS Planning & Engineering	6 Crow Canyon Court	San Ramon	CA	94583
Design Engineers Group	2175 The Alameda, Suite 100	San Jose	CA	95126
DKS Associates	1956 Webster St. Ste 300	Oakland	CA	94610
Dowling Associates	180 Grand Avenue, Suite 995	Oakland	CA	94612
E2 Consulting Engineers, Inc.	1900 Powell Street, Suite 250	Emeryville	CA	94608
Fehr and Peers Associates	3685 Mt. Diablo Blvd., Suite 200	Lafayette	CA	94549
Gardner Systems	1355 Willow Way, Suite 110	Concord	CA	94520
Harza Engineering Company	425 Rowland Way	Oakland	CA	94621
Holmes & Narver	1330 Broadway, Suite 1001	Oakland	CA	94612
JMEC Engineering, Inc.	2975 Treat Blvd., Suite B2	Concord	CA	94518
Kimley-Horn & Associates	555 12th Street, Suite 1230	Oakland	CA	94607
Korve Engineering	155 Grand Avenue, Suite 400	Oakland	CA	94612
Luk and Associates	399 Taylor Boulevard, Suite 288	Pleasant Hill	CA	94523
Meyer, Mohaddes, Associates, Inc.	2101 Webster St., Suite 725	Oakland	CA	94612
Paragon Transportation Services, Inc.	4849 East 12th Street	Oakland	CA	94601
Parsons Brinckerhoff Quade & Douglas, Inc.	303 Second Street Ste. 700 North	San Francisco	CA	94107
Parsons Transportation Group	120 Howard Street, Suite 850	San Francisco	CA	94119
Thomson Transportation Engineering, Inc.	2969 Johnson Ave.	Alameda	CA	94501
TJKM Transportation	5960 Inglewood Drive, Suite 100	Pleasanton	CA	94588
Transcore	2000 Powell Street, Suite 1090	Emeryville	CA	94608
TranSystems Corporation	180 Grand Avenue, Suite 400	Oakland	CA	94612
Wilbur Smith & Associates, Inc.	1145 Market Street, 10th Floor	San Francisco	CA	94103